



INTERNATIONAL COMMISSION OF JURISTS

COMMISSION INTERNATIONALE DE JURISTES

COMISIÓN INTERNACIONAL DE JURISTAS

P.O. BOX 160, 26, CHEMIN DE JOINVILLE, CH-1216 COINTRIN / GENEVA, SWITZERLAND

TEL. (41 22) 788 47 47 — CABLE ADDRESS: INTERJURISTS, GENEVA

TELEX: 418 531 ICJ CH — TELEFAX: (41 22) 788 48 80

U.N. Sub/Commission on the Prevention
of Discrimination and the Protection of Minorities
Forty-fourth session
Agenda item 6
August 1992

Oral Intervention of the International Commission of Jurists

Mr. Chairman,

The International Commission of Jurists (ICJ) is greatly concerned about the deteriorating human rights situation in several parts of the world. In particular, the ICJ is concerned with the breakdown of the rule of law, frequently caused by military intervention in the normal life of a civil society. Parliaments and political parties, which contribute to democracy, the rule of law and human rights, have been undermined by military personalities in several countries.

Mr. Chairman, the ICJ is shocked about the alarming deterioration in respect of basic principles of humanitarian law in the former Yugoslavia. Since the Commission on human rights will devote a special item to this devastating crisis, the ICJ will elaborate on this issue at the time.

In Peru, on the night of 5 April 1992, the constitutional order was subverted with a coup d'etat carried out by the President, Alberto Fujimori. After dissolving Parliament and virtually revoking the independence of the judiciary, he assumed full powers and, as Commander in Chief of the armed forces, put the entire country under the control of the military. Finally, he suspended the Constitution.

The coup d'etat was a grave and serious step backwards for Peru. It was an act of aggression against the very basis of the rule of law and an outrage to democracy throughout the continent.

For more than 12 years, Peru has been the victim of attacks by the "Shining Path", a guerrilla group which originally operated in the southern highlands but which has, over the years, spread all over the country. Another guerrilla group is the Tupac Amaru Revolutionary

Movement (MRTA). The "Shining Path" and the MRTA are violent terrorist organisations which have indiscriminately killed and injured civilians in Lima and all over the country. The armed forces and the police authorities have carried out acts of brutal repression not only against the members of the "Shining Path" and the MRTA but also against those who simply view them with sympathy. This has led to extensive, persistent and gross human rights violations in Peru. There is nothing to suggest that a dictatorship based on brutal force will be able to lift Peru out of this deplorable situation. On the contrary, it may well have a negative effect on the enforcement of human rights and on the democratic system in Peru. The International Commission of Jurists therefore calls for the appointment of a Special Rapporteur on Peru.

Mr Chairman, in Thailand unarmed citizens were shot at by troops in Bangkok in May 1992. The protesters were demonstrating against General Suchinda Kraprayoon who had not entered the elections and was not a member of Parliament but on 7 April took over the office of Prime Minister. He had been a senior officer in the military junta which had replaced the elected government in a coup d'etat on 23 February 1991.

Concerned at the deteriorating human rights situation, the ICJ sent a mission to Thailand from 22 May to 1 June. According to figures obtained by the mission 52 persons were killed and 789 wounded. The ICJ mission found evidence revealing that soldiers shot directly at the crowd during the protests. Military intelligence admitted that 150,000 rounds of live bullets had been discharged during the fatal days. It is estimated that more than 500 persons have disappeared.

The bloodshed came to an end with the intervention of King Bhumibol of Thailand. General Suchinda resigned on 24 May but before this declared an amnesty for all those involved in the massacre. A Thai Constitutional Tribunal has now ruled the amnesty legal and this ruling will be put before parliament after the 13 September elections.

While senior military leaders responsible for the deaths of pro-democracy demonstrators have been demoted, the growing clamour in Thailand that all those responsible for the massacre be brought to justice has gone unheeded.

Several commissions have been set up to inquire into the events of May 1992. It is not certain as to how effective such commissions would be if they do not have power to subpoena witnesses. The ICJ strongly recommends that the commission of inquiry have adequate powers to make effective inquiries including the power to recommend and direct prosecutions if such prosecutions are found desirable in the public interest.

Mr. Chairman, on 12 November 1991, Indonesian Security Forces killed more than 50 unarmed civilians in East Timor. The demonstrators had marched to the grave of a young Timorese man killed on 28 October 1991 by security forces.

The Indonesian Government, on 18 November 1991, appointed a National Commission of Inquiry to investigate on all aspects of this incident. Mr. Chairman, in our view, the reference made to "excessive shooting" and "unorganized security personnel acting outside any control or command" in the conclusions of Advance Report of the National Commission of Inquiry, is conclusive and reveals that homicide and serious assault have taken place on the part of the security forces.

Charges brought against the military personnel were patently inappropriate to the crimes involved. Moreover the seriousness of the charges, not to mention the sentences, does not bear any comparison to the charges and sentences brought against the demonstrators.

From 29 May to 6 June, a Courts Martial tried 10 lower ranking military personnel, for "disobeying orders". Sentences ranged from 8 to 18 months. Earlier, disciplinary action had been taken against some of the senior officers.

The ICJ sent observers to the trials of the East Timorese being prosecuted for their role in the 12 November demonstration in Dili and the subsequent demonstration in Jakarta on 19 November. Four of the defendants had been charged with violating Indonesia's subversion law, which is a capital offence. The rest were charged with spreading hatred and enmity towards the Government for which the maximum penalty is 7 years in prison. At the Jakarta trials sentences ranged from 6 months to 10 years and in the trials in Dili from 5 years and 8 months to life imprisonment.

Mr. Chairman, a report which the ICJ is releasing today (Tragedy in East Timor, A Report on the Trials in Dili and Jakarta) states that the trials have served to highlight the flaws inherent in the Indonesian Code of Criminal Procedure. These include the absence of the defendant's right to remain silent. Not only were the defendants required to testify in the proceedings against each other, they were compelled to testify in their own trials as well.

Mr. Chairman, the ICJ report concludes that the very existence of the Anti-Subversion Law of 1963 and the "hate-sowing" provisions of the Penal Code represent a serious violation of basic human rights. The vague language of each of the laws gives the government great latitude in bringing charges under them and provides the court with ample leeway in finding the defendants guilty.

Mr. Chairman, we now turn our attention to Rwanda. Even though the Rwanda government recently ratified nine international human rights instruments, it continues to commit gross violations of human rights and fundamental freedoms. Most blatant is the discrimination based on ethnicity, which is widespread. The government keeps dossiers citing group classification, to be used as a basis for discrimination. The majority of victims of abuse belong to the Tutsi minority.

Since 1990, officials of the Rwanda government and members of the security forces have committed extrajudicial killings, rape, torture, arbitrary arrests and detention of the Tutsi minority — and conditions of detention are deplorable. People who had been imprisoned in Rwanda report being confined for months in terribly crowded or dark punishment cells, being severely beaten, forced to lie down in excrement and denied food, water and medical attention. In addition, many Tutsi have "disappeared," and rural Rwandans have reported seeing authorities dump bodies. Furthermore, systematic discrimination hinders the groups' access to education and employment.

The government also continues to harass political opponents, hinders opposition parties from holding public meetings, attacks journalists who are critical of the government, selectively prohibits access to legal counsel and fails to punish persons who are guilty of committing serious human rights violations.

These many examples of abuse indicate that the formal commitments by the Rwanda government expressing its concern for human rights are little more than rhetoric.

Mr. Chairman, since 1988, Colombia has faced a situation of grave and persistent human rights violations. According to statistics from Colombia's Public Ministry, state agents daily kill and/or assault 10 Colombians. In the first 6 months of 1992, 1,863 people were killed for political reasons or died in combat. In cases where the author or motive was identified, state agents were found responsible in 40% of the cases, paramilitary groups in 30%, guerillas in 27.5% and drug traffickers in 18%. In July, habeas corpus was suspended for cases of drug trafficking and terrorism. This critical human rights situation requires the attention of the sub-commission and the ICJ asks for the appointment of an expert to present a report to the Commission on Human Rights on the situation in Colombia.

Mr. Chairman, as peace negotiations proceed, the human rights situation in the Palestinian territories occupied by Israel continues to deteriorate. The ICJ is particularly concerned about the systematic use of torture in Israeli prisons and the increasing number of deaths in detention.

In November 1987, Israel legalised the use of "moderate physical pressure" to extract confessions from detainees. In Autumn 1991, our West Bank affiliate Al Haq, conducted a field study interviewing 700 detainees detained since November 1987. This study revealed that 85% of them were tortured. Of this percentage 98.7% were subjected to beatings, 91.5% were forced to stay in uncomfortable positions for a period between one hour and two weeks, 44% were subjected to attempts to suffocation, 6.8% were subjected to electric shocks and 14.5% had to be hospitalised. This policy has resulted in more than 22 cases of death in custody since 1987.

Thank you, Mr. Chairman.